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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

No. 29

MAGNOLIA PETROLEUM COMPANY,
Petitioner,

versus

SULLIVAN H. HUNT,
Respondent.

BRIEF ON BEHALF OF PETITIONER ON THE MERITS.

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May It Please This Honorable Court:

On May 3, 1943, pursuant to petition by Magnolia Petroleum Company, Writ of Certiorari was granted directed to the Court of Appeal, First Circuit, of the State of Louisiana.

This brief, of necessity, is partly in repetition of the one filed in support of the petition for the Writ; but is being prepared in order to consolidate the petition and original brief and to amplify a portion of the argument there made.

I.

The petition was filed seeking Writ, which was allowed, directed to the Court of Appeal, First Circuit, of the State of Louisiana, to review a decree rendered by it in suit there entitled "Sullivan H. Hunt v. Magnolia Petroleum Company" (R. p. 81), affirming the judgment of the District Court, Calcasieu Parish, Louisiana, in favor of Sullivan H. Hunt (R. p. 80). The decision of the Court of Appeal is reported in *10 Sou. Rep. (2d Series), page 109.* Application was made to the Supreme Court of the State of Louisiana for Writ of Certiorari but it was denied. (R. pp. 97-107). The decision denying the Writ is not reported; neither is that of the District Court.

II.

The grounds on which the jurisdiction of this Court was invoked are:

(a) The question presented involves a right, privilege and immunity (specially set up in the Louisiana Courts) under the Constitution of the United States and particularly the full faith and credit clause thereof (Art. IV, Sec. 1); and this Court has jurisdiction to review the judgment of the Court of Appeal, First Circuit, of the State of Louisiana, under Section 1, paragraph (b) of Act of February 13, 1925, as amended (Judicial Code, Section 237, U. S. C. A., Title 28, Section 344).

(b) The present Louisiana Constitution (1921) gives exclusive appellate jurisdiction to the Court of Appeal in all cases under the Louisiana Workmen's Compensation law (Article VII, Sections 10 and 29). But Article VII, Section 11, makes it competent for the Supreme Court

of Louisiana (the highest Court of the State) to require, by Writ of Certiorari, a case to be certified by the Court of Appeal to it for review, provided application therefor shall be filed within thirty days after a rehearing shall have been refused by the Court of Appeal.

(c) The decision or decree of the Court of Appeal, First Circuit, of the State of Louisiana, was rendered on October 8, 1942 (R. p. 92); application for rehearing was filed therein October 19, 1942, within the time allowed by law (Acts 1910, No. 16, Section 1; Dart's Louisiana General Statutes, Section 1450).

(d) The application for rehearing was refused by the Court of Appeal November 18, 1942 (R. p. 96); the petition to the Supreme Court of Louisiana for Writ of Certiorari and Review was filed November 30, 1942 (R. p. 107), and refused by it January 5, 1943 (R. p. 107).

III.

Respondent, Sullivan H. Hunt, obtained a judgment against petitioner in the District Court, Calcasieu Parish, Louisiana, under the Workmen's Compensation Law of the State based on an injury which occurred in Texas while Respondent was in petitioner's employ; and the judgment was affirmed by the Court of Appeal, First Circuit, of the State of Louisiana.

The record shows that Sullivan H. Hunt suffered an injury to his leg at Kermit, Texas, on May 25, 1939, where he had been performing work for petitioner since March 14, 1939. He had theretofore worked for petitioner

in Louisiana and the basis of his suit (recognized by the Louisiana Court and not now an issue) was that his services in Texas were performed under a Louisiana contract.

Pursuant to the law of Texas petitioner, after the accident, forwarded report thereof to Industrial Accident Board of Texas and on June 8, 1939, Respondent, Sullivan H. Hunt, submitted regular forms to that Board, over his signature, one styled "Claim for Compensation" and the other "Notice of Injury" (R. pp 51, 53). After this report compensation was paid to Respondent at the rate of $20.00 per week under the Texas law until October 23, 1940, when a question was raised as to the amount due him. On November 8, 1940, the Industrial Accident Board notified Respondent that a hearing would be had on November 19, 1940 (R. p. 47). The Board, on December 3, 1940, rendered judgment or order awarding compensation to Respondent at the rate of $11.90 per week and Respondent's attorneys, who had communicated with the Board, were notified to that effect (R. p. 41). The judgment was proved according to the Act of Congress (R. pp. 59, 60).

It was shown without contradiction, and the Court of Appeal agreed, that the Industrial Accident Board of Texas, under the law of that State, is a body having judicial powers whose judgments become final unless appealed from within the time (40 days) allowed (see testimony of Sam Lipscombe, R. p. 73, Letter of Meyers, R. p. 63). While, as stated, Respondent's Counsel, the same as in the Louisiana case, communicated with the Texas Board during the period allowed for appeal, no appeal was applied for (R. pp. 41, 60). On December 18, 1940, Respondent

filed suit against petitioner in the District Court of Calcasieu Parish, Louisiana (R. pp. 1-4), seeking compensation for the same injury for which he had been paid in Texas and upon which the judgment or order had been rendered in his favor by the Industrial Accident Board of that State.

According to the evidence and the decision of the Court of Appeal, "all matters relating to the filing of these forms by both the employer and employee appear to have been in conformity with the usual procedure under the Workmen's Compensation Law of Texas" (R. p. 82).

Various defenses were urged in the Louisiana Trial Court and all were decided against petitioner there and in the Court of Appeal. The defenses so made are not now subject to review except the one which involves the Federal question giving this Court jurisdiction. That defense was specially pleaded, being the plea of *res judicata* (R. pp. 5, 9), urged through all the courts, based on the former judgment obtained in Texas and the full faith and credit clause in Article IV, Section 1 of the Constitution of the United States.

IV.

The error assigned is that the Court of Appeal, First Circuit, of the State of Louisiana, erroneously answered its own query (R. p. 87), to-wit:

> "the vital and important question therefore is what effect must the Louisiana court give to the ruling under which the award was made",

when it held that it was not bound to give the Texas order or judgment full faith and credit under the Federal Con-

stitution although the Court of Appeal had conceded that it was a final adjudication under the laws of that State.

V.

It was said in the original brief, and is now repeated, that a summary of the argument to be made can be best presented by a mere reference to the recent decision of this Court in *Williams v. State of North Carolina, 63 Sup. Ct. Rep. 207, 87 L. Ed., p. 99.* What is to be argued here is that the order or judgment rendered by the Industrial Accident Board of Texas in Respondent's favor, granting him compensation, being *res judicata* there must be given full faith and credit by the courts of Louisiana. And on that point the decision in the *Williams* case, as will hereafter appear, is particularly appropriate and really decisive of the issue presented under the full faith and credit clause of the Federal Constitution.

But before considering that main issue and the cited decision, it might be well to here dispose of some irrelevant discussion of the Court of Appeal and an argument made in this Court by Respondent which has heretofore been decided against him.

The Court of Appeal, while not basing its decision on the idea, gave some credence to the assumption that petitioner was "not in law aggrieved" because credited with the amount of the award in Texas. The quoted language was from the case of *Gilbert v. Des Lauriers Column Mold Company, 180 App. Div. 59, 167 N. Y. S. 274*, which admittedly, however, did not involve a Federal question. But that is beside the point. The question is not what

judgment was rendered in Respondent's favor by the Texas Board but whether the thing had the force of *res judicata;* the authority of the thing adjudged. Here, the parties were the same. The cause of action was the same. And there is no doubt, as will be shown, that the judgment was final between them in the State of Texas. So this discussion by the Court of Appeal does not alter the only question to be decided and that is whether the judgment or order by the Industrial Accident Board is entitled to full faith and credit in Louisiana under the Federal Constitution.

In answer to the petition first filed in this Court Respondent, by brief, argued another point that has no bearing on the present Federal question. It was there urged that the judgment obtained in Texas was ineffective as the Industrial Accident Board, according to the argument, had no jurisdiction when the contract of employment had been made in Louisiana. It must be conceded that the contract was a Louisiana one, as the Court of Appeal so held. And it will be found from the record that the Trial Court did conclude that the Industrial Accident Board of Texas had no jurisdiction in the premises. But the Court of Appeal disagreed with that ruling as appears on *page 112* of the *Southern Reporter* when it said:

> "We do not agree with the learned district judge to the extent that because the contract of employment arose in Louisiana the Industrial Accident Board of Texas was without jurisdiction to entertain the claim for compensation, nor can we agree that plaintiff did not at least voluntarily participate

in the proceedings before the Board and thereby became a party to the same. It is conclusively shown that the Texas law, Vernon's Ann. Civ. St. art. 8306 et seq., vests the Industrial Accident Board of the State of Texas with jurisdiction in cases of compensation involving injuries sustained by employees in that State and who are even temporarily employed therein, and it is conceded that all proceedings before that Board and the awards made by it have the same force and effect as proceedings before and judgments rendered by courts of competent jurisdiction in that State. The vital and important question therefore is what effect must the Louisiana Court give to the ruling under which the award was made." (R. p. 87).

That issue, therefore, has been determined against Respondent; and a study of the record as well as the law of Texas involved will show clearly that the Court of Appeal's finding on that point was legally correct.

The record (pp. 51, 53) shows that Sullivan H. Hunt, Respondent, submitted a claim for compensation to the Industrial Accident Board of Texas over his own signature. It follows and was shown that he accepted compensation under the original award in his favor by the Industrial Accident Board, payments having been made at the rate of $20.00 per week until October 23, 1940, when a question was raised as to the amount due him. Then, on December 3, 1940 (R. p. 41), that Board rendered its order or judgment in his favor awarding compensation at the rate of Eleven Dollars ($11.00) per week; and that order or judgment is now pleaded as *res judicata*.

The law of Texas on that subject is set forth in the case of *Traders & General Insurance Co. v. Stakes, 131 S. W. (2d) 270* (see *page 273*):

> "In determining the question at issue no controlling importance attaches to the fact that Stakes resided at Rodessa, in Louisiana, which was near the Texas boundary line, and that his employment was not permanent but apparently temporary and confined to work in the ditch-digging crew of the branch pipe line then being constructed. Nor do we regard as controlling the place where the contract of employment was made. The undisputed fact remains that he was employed to work and did work in Texas, and that, in our opinion, fixed his status as a Texas employee of the Contracting Company, his employer, and conferred upon him the benefit and protection of the Workmen's Compensation Law of this State. Vernon's Ann. Civ. St., art. 8306 et seq., in case he was injured in Texas while working in the course of his employment."

That case involved the identical situation presented here. True, according to the decision of the Court of Appeal, Respondent's contract of employment was made in Louisiana. But he was employed to work, did work, and was injured in Texas and under the Texas decision just referred to that "fixed his status as a Texas employee", conferring upon him the benefit and protection of the Workmen's Compensation Law of that State.

Nor does Respondent's argument that the Louisiana courts had jurisdiction to award compensation to this employee under the Louisiana statutes aid his case. The Louisiana law naturally could not deprive Texas of the right to entertain a claim there made under the statutes

of that State; and the claim was made and a judgment rendered thereon.

If Respondent had the right to seek compensation in Texas before the Industrial Accident Board, which right he did exercise, then that Board had jurisdiction to grant him an award without necessitating his return to Louisiana to sue here. Plainly if the Board had jurisdiction in *his favor*, it had jurisdiction completely; and the Court of Appeal of Louisiana was eminently correct in so holding.

So the question is not whether he could have sued in the courts of Louisiana in the beginning; it is whether, after having been awarded a judgment in his favor in Texas, he could *again* sue here on the same cause of action. And that brings up the only real question to be decided: What effect must the Louisiana courts give to the ruling under which the Texas award was made?

In holding that the order or judgment of the Texas Board was not *res judicata* here, the Court of Appeal rested its decision on some assumed idea (which does not clearly appear) that the judgment in Texas was contrary to the public policy of this State; and that Court then erroneously and almost entirely based its conclusion on a faulty analysis of this Court's decision in *Alaska Packers Association v. Industrial Accident Commission*, *294 U. S. 532, 547, 55 S. Ct. R. 518.*

The Court of Appeal realized that this Court, in the *Alaska Packers* case, was concerned only with the application of the full faith and credit clause in its relation to the *statutes* of different States; but it concluded that it was

only natural that the same limitation or exception would apply to judgments of courts and rulings of administrative boards.

The last mentioned idea of the Court of Appeal proves its own error. When the question is the *enforcement of a statute* of one State by another, an entirely different problem is presented as was ably shown by the majority opinion in *Williams v. State of North Carolina*, supra.

In that opinion the Court analyzed the *Alaska Packers* decision and with emphasis denied the erroneous conclusion of the Court of Appeal in this case. This Court said:

> "This Court, to be sure, has recognized that in case of *statutes*, 'the extra-state effect of which Congress has not prescribed', some 'accommodation of the conflicting interests of the two states' is necessary. Alaska Packers Ass'n v. Industrial Accident Comm., 294 U. S. 532, 547, 55 S. Ct. 518, 523, 79 L. Ed. 1044." *(S. Ct. R., page 211).*

And then:

> "But that principle would come into play only in case the Nevada decrees were assailed on the ground that Nevada must give full faith and credit in its divorce proceedings to the divorce statutes of North Carolina".

The analogy of the last quoted statement is obvious. The *Alaska Packers* case would have been apposite here if, in the trial of the case in Texas, an attempt had been made to enforce the statutes of Louisiana as against those of that State. Or if, say, in the Louisiana Court the plea

had been that the laws of Texas should control and that they prevented further recovery here.

But a statute is not in issue. The legal question arises under the Federal Constitution and the full faith and credit clause thereof and the applicability of that clause to a *judgment* rendered in Texas between the same parties and involving the same controversy.

And, additional language of this Court in the *Williams* case entirely answers the argument of the Court of Appeal that the same rule that applies to statutes also deals with judgments of a sister State:

> "So far as judgments are concerned the decisions, as distinguished from dicta, show that the actual exceptions have been few and far between, apart from Haddock v. Haddock. For this Court has been reluctant to admit exceptions in case of judgments rendered by the courts of a sister state, since the 'very purpose', of Art IV, #1, was 'to alter the status of the several states as independent foreign sovereignties, each free to ignore obligations created under the laws or by the judicial proceedings of the others, and to make them integral parts of a single nation.' Milwaukee County v. M. E. White Co., supra, 296 U. S. at pages 276, 277, 56 S. Ct. at page 234, 80 L. Ed. 220." *(S. Ct. R., page 211).*

The *Williams* decision, in fact, is a complete brief in this case and to argue the question presented at great length would in effect be little less than a plagiarism of this Court's own discussion. But it is proper, at least for convenience, to quote further pertinent and applicable parts of that decision.

In the first place the ideas of the Court of Appeal, with reference to the *policy* of the State, were answered in one clear sentence:

> "Thus even though the cause of action could not be entertained in the state of the forum either because it had been barred by the local statute of limitations or *contravened local policy*, the judgment thereon obtained in a sister state is entitled to full faith and credit." (*S. Ct. R., p. 211*—Italics ours).

And by these interesting comments:

> "In the second place, the question as to what is a permissible limitation on the full faith and credit clause does not involve a decision on our part as to which state policy on divorce is the more desirable one. It does not involve selection of a rule which will encourage on the one hand or discourage on the other the practice of divorce. That choice in the realm of morals and religion rests with the legislatures of the states. Our own views as to the marriage institution and the avenues of escape which some states have created are immaterial. It is a Constitution which we are expounding—a Constitution which in no small measure brings separate sovereign states into an integrated whole through the medium of the full faith and credit clause."
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> * * * * * * * *
> * * * * * * * *
>
> "So when a court of one state acting in accord with the requirements of procedural due process alters the marital status of one domiciled in that state by granting him a divorce from his absent spouse, we cannot say its decree should be excepted from the full faith and credit clause merely because its enforcement or recognition in another state would conflict with the policy of the latter. Whether Congress has the power to create exceptions (see Yarborough v. Yarborough, 290 U. S. 202, 215, 54 S.

Ct. 181, 186, 78 L. Ed. 269, 90 A. L. R. 924, note 2, dissenting opinion) is a question on which we express no view. It is sufficient here to note that Congress in its sweeping requirement that judgments of the courts of one state be given full faith and credit in the courts of another has not done so." *(S. Ct. R., p. 215).*

Or, an entire argument on that score can be found in other language of Sections 2 and 3 of the *Williams* decision:

"Article IV, #1 of the Constitution not only directs that 'Full Faith and Credit shall be given in each State to the Public Acts, Records and Judicial Proceedings of every other State' but also provides that 'Congress may by general Laws prescribe the manner in which such Acts, Records and Proceedings shall be proved and the Effect thereof.' Congress has exercised that power. By the Act of May 26, 1790, c. 11, 28 U. S. C. #687, 28 U. S. C. A. #687, Congress has provided that judgments '*shall have such faith and credit given to them in every court within the United States as they have by law or usage in the Courts of the State from which they are taken.*' Chief Justice Marshall stated in Hampton v. M'Conel, 3 Wheat. 234, 235, 4 L. Ed. 378, that '*the judgment of a state court should have the same credit, validity, and effect, in every other court in the United States, which it had in the state where it was pronounced, and that whatever pleas would be good to a suit thereon in such state, and none others, could be pleaded in any other court in the United States.*' That view has survived substantially intact. Fauntleroy v. Lum, 210 U. S. 230, 28 S. Ct. 641, 52 L. Ed. 1039. This Court only recently stated that Art. IV, #1 and the Act of May 26, 1790 require that '*not some but full*' faith and credit be given judgments of a state court. Davis

v. Davis, 305 U. S. 32, 40, 59 S. Ct. 3, 6, 83 L. Ed. 26, 118 A. L. R. 1518." (*S. Ct. R., p. 210*—Italics ours).

The controlling expression in the last quoted language, which was from the pen of Chief Justice Marshall, is that *whatever plea would be good in Texas*, and none others, can be pleaded in any other court in the United States.

The plea of *res judicata* would be good in Texas.

> "As already shown, when the matter of compensation for Frank Pruitt's death was presented to the board originally, the board absolutely refused compensation. No notice of dissatisfaction was given by Wm. Pruitt, et al., and no suit was filed appealing therefrom. It follows that such order became final, and the board had no power or jurisdiction to pass on the matter a second time."
>
> . . . . . .
>
> "It is further the rule that the final award of the board unappealed is entitled to the same faith and credit as a judgment of a court. There is therefore no escape from the conclusion that the award of November 14, 1928, made by the Accident Board denying these claimants compensation from this insurer on account of the death of Frank Pruitt *was and is res judicata of this entire suit.*" Ocean Accident & Guarantee Corporation v. Pruitt, 58 S. W. (2d) 41, decided by Commission of Appeals of Texas; Writ of Error denied by Texas Supreme Court." (Italics ours).
>
> (Also see R., p. 76).

This rule was conceded by the Court of Appeal. As the plea is good in Texas it is good here. So said this Court in *Williams v. North Carolina*, supra.

The majority opinion in the *Williams* case is even more apt here where there is involved only a money judgment rather than the institution of marriage there considered. True, the employee, under the various workmen's compensation statutes, is considered more or less in the light of a ward of the State. But even so, the thing involved is money and the same human problems that were present in the *Williams* case are not here to argue against the application of the full faith and credit clause of the Constitution.

The dissenting opinions of Mr. Justice Murphy and Mr. Justice Jackson in the *Williams* case would probably not have been rendered if a money judgment only had been before the Court. They did not deny the application of the time honored rule in cases of this sort. In fact the dissenting opinion of Mr. Justice Jackson, in referring to the majority opinion and the decisions on which it rested, specially confirmed the idea, as to money demands, that:

> "If a judgment is conclusive in the State where it was pronounced, it is equally conclusive everywhere." *Christmas v. Russell, 5 Wall. 290, 18 L. Ed. 475 (S. Ct. R., p. 220).*

And that is the rule that was affirmed by all the Court in the *Williams* case. That is the rule that must be applied here because it was shown and was uncontradicted (and was conceded by the Court of Appeal) that a judgment of the Industrial Accident Board of Texas is conclusive in that State.

Under the full faith and credit clause it is "equally conclusive" in the courts of Louisiana. And that being the law, the judgment heretofore rendered in Respondent's favor by the Louisiana courts should be set aside.

Respectfully submitted,

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